GENERAL TERMS AND CONDITIONS OF SALE FOR SQUASHTM SOFTWARE

1. PREAMBLE

1.1. Publisher of SquashTM.

The publisher of SquashTM is Henix, , French simplified joint-stock company:

HENIX

Address: 23-25 avenue du docteur Lannelongue, 75014 Paris, France
Head office: 1 rue François Ory, 92120 Montrouge, France
Phone: +33 1 42 31 02 00
Email: contact@henix.com
Website: https://www.henix.com
Registration number at the Nanterre business and commercial register: 421 479 163
European VAT number: FR15421479163

1.2. Stakeholders.

In these terms and conditions, "Henix" shall refer to it. "Client" means the professional, legal person placing an order of products and services connected to SquashTM with Henix.

1.3. Acceptance of these General Terms and Conditions of Sale.

Placing an order implies the Client's full commitment to these general terms and conditions of sale (GT&C) made available by Henix by means of a quotation appendix and its three (3) appendixes, as well as respecting the obligations arisen from the French Intellectual Property Code and the licenses to use the products and the services. By accepting these terms and conditions, the Client agrees to rule out the application of any personal terms and conditions of sale and/or purchase.

1.4. GT&C Applicable Version.

It is strictly agreed that any dispensation or renunciation from a party, in the application, total or partial, of the agreements provided for these terms and conditions, regardless the frequency and the duration shall neither claim any alteration of the actual terms and conditions nor generate any right. Moreover, Henix reserves the right to change these terms and conditions, as well as the prices, at any moment: Henix commits to informing the Technical Contact of any modification by any written means, notably by email, at least thirty (30) days before their entry into force.
The Client shall have the opportunity to refuse these modifications by notifying its disagreement to Henix in writing within a period of fifteen (15) days from the date of notification by Henix. In the event of the Client's disagreement, the previous General Terms and Conditions shall remain applicable until the end of the current contractual period.
If the Client continues to use the Software after the modified General Terms and Conditions come into force without having notified its disagreement to Henix, it shall be deemed to have accepted these modifications.

1.5. Entire Agreement.

These Terms supersede and replace any prior oral or written agreements, undertakings, negotiations or understandings relating to the subject matter of the business relationship between the Parties. Furthermore, the Parties operate in an independent way as part of the execution of these terms and conditions, which shall not be interpreted as the creation of a subordinate relationship or a de facto partnership.

1.6. Special Conditions of Sale.

These terms and conditions constitute the unique negotiation base. They may however be completed by Special Conditions of Sale depending on the negotiations led with the Client. In case of contradiction between the General Terms and Conditions of Sale and the Special Conditions of Sale, the Special Conditions of Sale prevail.
If Special Conditions of Sale exist, the Client renounces to communicate to anyone, directly or indirectly, about their stipulations, in any way whatsoever: the Client agrees that a disclosure of their stipulations or the content of the negotiations with Henix shall prejudice the interests of the latter and shall expose its liability. The Client guarantees acceptance and performance from employees, authorized representatives or subcontractors. Moreover, the Client renounces to reveal these Special Conditions of Sale to any third party.

2. DEFINITIONS

2.1. Interpretation.

The titles only have value of decorum. In case of contradiction between the title and the body of an article, it is recognized that the body prevails. The Client agrees that, in case of inconsistency or contradiction between the French version of these terms and conditions and the potential translated versions, the French version prevails. The enumerations identified as examples and/or that contain the statement "etc." shall not be considered as exhaustive.

2.2. General definitions.

In these terms and conditions, the terms and expressions hereinafter, in both singular and plural, are thus defined:
"Agent"; program installed and launched in an environment to perform tasks required by an external software and report back to it the results, statuses, and diagnostics of these tasks"
"Affiliated Company": any entity maintaining with the Client capital or control links, direct or indirect, and especially those defined in articles L. 233-1 *et seq.* of the French Commercial Code.
"Contracting Authority": entity behind a project need and supervisor of the schedule and budget for the execution. This project shall lead to the realization of an immaterial IT product (software, script, *etc.*).
"Documentation": the instructions written for the Users, administrators and operators, delivered by Henix, under a dematerialized form or online.
"General Terms and Conditions of Sale": these terms and conditions, their potential future versions and additional documentation.
« **Incident »:** any malfunction, anomaly, or interruption affecting the operation of the Software, reported by the Client via its designated Technical Contact and in accordance with the incident reporting procedure defined in the appendix.
An incident may result from improper use of the Software or an anomaly.
An incident may be of two types:

- Critical: the observed malfunction results in a total unavailability of the Software or one of its core features.
- Non-critical: any other malfunction.

"Instance": in the case of a SquashTM Cloud License, the SquashTM made available by Henix on the URL communicated during the commissioning.
"License": contractual conditions in which the Software is granted to the Licensee.
"Licensee": the final beneficiary of the License User rights concession. It is, except express exemption, the Client. In case where the Client is expressly distinguished from the Licensee, this will be indicated in the quote or in the purchase order. In this case, the rights and obligations of one, stated in these terms and conditions, are imputed to the other, without interfering with the full impact of the legal provision. **"Modified Code":** code derived from the source code of the Software, which has undergone a modification, alteration and/or evolution not made available by Henix.
"Object Code": the binary files derived from the Source Code compilation.
"Outcome": all data and files resulting from the use of the Software.
"Parties": the Client and Henix, together.
"Period of Validity of the License": the duration during which the License is granted. It is defined in the article Period of validity of the license 4.
"Plugin": software provided by Henix, completing the Software to extend its functionalities.
"Runtime Environment": Space configured to allow the execution of automated tests. It includes the hardware, the operating system, the necessary network access (including access to the systems under test, to repositories containing the tests…), the libraries, dependencies, tools, and configurations required for automated testing. An Agent must be installed in this runtime environment to enable the launch of automated tests, their monitoring, and the exploitation of results.
"Software": all components provided by Henix:

(a) Either as object code in the case of a Server License (Premium or Ultimate)
(b) Or as the SquashTM instance in the case of a Cloud License (Premium* or Ultimate);
(c) Along with all its Updates.

"Source Code": all the Software instructions and program lines that require an access to modify the Software.
"SSO": Single Sign-On (SSO) is an authentication service, at the Client's expense, that allows a user to access multiple applications by authenticating only once. To benefit from SSO, the Client must have a directory service, which is not included in the License. Henix only provides the plugin required for SSO. **"System"**: the technical environment required for the functioning and the use of the Software, composed of physical components (servers, processors, hard disks, memories, *etc.*) and software components (operating system, Java virtual machine, database software, virtual machine management software, browsers, *etc.*).
"Technical Contact": the User(s) designated by the Licensee as the Henix point of contact for the management of its License and authorized to report support requests, anomalies, and incidents.
"Third Party Software": component that is neither created nor maintained by Henix, and which is not owned by Henix, that may be necessary for the operation of SquashTM, and/or may be used together with the Software. For example: MariaDB, PostgreSQL, GitLab, Jira, Mantis, Junit, Cucumber, Robot Framework, etc. This is not a limitative list.
"Updates": all the improvements, all the error correcting programs or patches related to the Software, possibly made available by Henix for the Licensee. The Updates include the elements defined in Article 2.3.and do not include the products and the features commercialized separately by Henix and invoiced in addition to the Client.
"**User**": natural person authorized by the Licensee to use the Software to execute the contractual conditions, regardless of his occupation (Client's employee, subcontractor, external consultant, *etc.*).

2.3. Version definition

« **Version** »: a specific release of the Software, identified by a version number in the X.Y.Z format (e.g., 12.3.5).
« **Major Branch** »: the set of Software Versions sharing the same first number in the version number (e.g., all Versions 12.x.y constitute Major Branch 12).
« **Major Version** »: the first Version of a Major Branch of the Software, containing major features and potentially incompatible changes with previous Versions. Major Versions are numbered with the second and third numbers set to zero (e.g., 1.0.0, 2.0.0, ..., X.0.0).
« **Minor Version** »: a new Version of the Software within the same Major Branch, which mainly contains bug fixes and minor improvements. Minor Versions are numbered by incrementing the second number in the version number, with the third number reset to zero (e.g., 1.1.0, 1.2.0, ..., 1.Y.0).
« **Patch Version** »: a new Version of the Software within the same Minor Version, which contains only bug fixes. Patch Versions are numbered by incrementing the third number in the version number (e.g., 1.0.1, 1.0.2, ..., 1.0.Z).
« **LTS Branch** » (Long Term Support): a Major Branch of the Software benefiting from extended support; LTS Branches are listed on the following web page: https://tm-en.doc.squashtest.com/latest/release-notes/index.html.
« **LTS Version** »: the latest Version from an LTS Branch.

3. OBJECT

At the time of subscription, the Client signs up for one of the following Licenses:

- Server:
- Server Premium: The Licensee gets the Software as Object Code;
- Server Ultimate: The Licensee gets the Software as Object Code;
- Cloud:
- Cloud Premium* (without automation features): the Licensee has access to a Cloud Instance of SquashTM. This License does not contain any automation functionality.

- Cloud Ultimate: The Licensee has access to a Cloud Instance of SquashTM.

Through one of these Licenses, Henix provides the Licensee with access to the features of SquashTM. This Software enables the management of test assets.
These terms and conditions detail the terms of the License granted by Henix to the Licensee, as well as the associated services' specific provisions to this License. The use of the Software outside of the License purposes may represent, according to the L. 335-3 article of the French Intellectual Property Code, a counterfeit action.

3.1. Case of the Server Premium License and the Server Ultimate License.

This article concerns a SquashTM Version made available as Object Code.

3.1.1. Software.

In addition to the Software definition in article 2, this term refers to:

(a) SquashTM's Object Code with exactly the same functional scope than the Community distribution;
(b) The Object Code of Plugins, that cover features included inServer Premium and Server Ultimate Licenses. Those features are listed on this website: https://www.squashtm.com/en/offers-pricing

The Software is subject to a license concession and not a sale. Its terms and conditions are specified in article 5.1.

3.1.2. Services.

In addition to the granted Software License, the Licensee may benefit from Software support and maintenance services according to the terms and conditions defined in article 8.

3.2. Case of the Cloud Premium* and Cloud Ultimate Licenses.

This article concerns the provision of a Cloud Instance of SquashTM.

3.2.1. Software.

In addition to the Software definition in article 2, this term refers to:

(a) A SquashTM Instance hosted on Henix's servers, providing coverage for the features specific to Cloud Premium* and Cloud Ultimate Licenses. The features are listed on the website: https://www.squashtm.com/en/offers-pricing

The Licensee can interface the Software with Third Party Software that he operates. The interface may require Plugins. These Plugins are made available as Object Code and may be installed by the Licensee on its own System.

3.2.2. Services.

In addition to the granted Software License, the Licensee may benefit from Software support and maintenance services according to the terms and conditions defined in article 8. The Licensee may also benefit from operating services according to the terms and conditions defined in article 7. Services do not include the required equipment and Third-Party services such as Internet access.

4. PERIOD OF VALIDITY OF THE LICENSE

4.1. Duration.

The Parties do not intend to condition their agreement to a cooling-off period. Unless otherwise noted, the License takes effect from the date written on the quotation and the period of validity is one (1) year. The Parties agree that the License renews afterwards, with the same terms, by tacit renewal during the same period for lack of termination by one or the other Party notified by certified letter with return receipt requested one (1) month before the expiry of the term of the License.

4.2. Expiry Date of Software Usage.

The use of the Software necessitates a valid License that is, among others, a License that has not reach its expiry date. Henix reserves the right to put tools in place in order to control the respect of the expiry date of the Software's License.

5. COMMON PROVISIONS OF THE FOUR LICENSES

5.1. Licensing.

As long as these terms and conditions are respected, Henix concedes to the Licensee a non-exclusive and non-transferable Software License, during the Period of Validity of the License, under the conditions described hereinafter.
The licensing can only apply if the Client obtained the Software from Henix.
The License's exclusive purpose is the realization of testing projects of which the Licensee is the only Contracting Authority, excluding any provision of services to any third party. The Client undertakes and agrees to ensure that the Licensee shall refrain from providing any IT services for an unauthorized (by Henix) third party using the Software. Any interpretation of the other stipulations herein that would contradict this one should be considered ineffective.
The Software and the services described herein cannot be of benefit to the Licensee to provide services to any third party, nor can the Licensee make a third party benefit from it. In such a context, a particular contract must be agreed upon between Henix and this third party.
The rights are not granted to the Licensee's Affiliated Companies.
Furthermore, if after the effective date, Henix makes Software Updates available to the Licensee, those shall be automatically covered by these terms and conditions and shall be part of the Software.

5.2. Maximum Number of Authorized Users.

The number of Users is estimated by adding up the number of active Users listed in the Administration workspace of each instance of SquashTM installed in production or in training environment.
At no time shall the number of users thereby calculated exceed the maximum number of Users authorized by the License.
The same User will be counted as many times as it is declared as an active User in a SquashTM instance in production or in training environment, whether it is authorized on a project or not.
Henix reserves the right to put means in place to control the effective number of Users of the Software, and to set up mechanisms for blocking the Software in the event that this number exceeds the maximum number of authorized users indicated in the Pricing Book.

5.3. Access.

The License granted to the Licensee enables the Software access to the authorized Users respecting the contractual conditions related to the License, especially concerning the maximum number of authorized Users and the License purpose.
In other cases, especially in the case of an access opening for the Licensee's Clients, the Client shall take out at least one (1) License per Client including the Software handling the projects, for an unlimited period.
The purchase of additional Licenses shall occur according to the prices and conditions applicable on the date of purchase.

6. SPECIFIC PROVISIONS–SERVER PREMIUM LICENSE AND SERVER ULTIMATE LICENSE

6.1. General Use.

The Licensee is authorized to install the Software on his servers with no limitation of the number of servers. The maximum number of authorized Users mentioned in the Pricing Appendix applies to all production servers and is calculated as explained in the article 5.2.
The Licensee is also authorized to install the Software:

(i) on third-party environments unopened to Users and dedicated to the Software testing and to the testing of upgrading version of the Software (testing environment or pre-production),
(ii) On third party environments unopened to Users and dedicated to the backup of the Software and its data. These installations are conditioned to a valid License.

When the License has expired, no installation of the Software in any environment can be maintained (except for open-source components).

6.2. Property rights.

The client undertakes not to copy the Software and agrees to ensure that the Licensee also undertakes not to copy the Software except in the context of the provisions stated in article 6.1. Any authorized Software copy made by the Client or the Licensee must include the same copyright notice and other proprietary rights than those appearing in the Software.

6.3. Modifications.

The Client undertakes not to, and agrees to ensure that the Licensee does not, correct, modify, adapt or translate the Software, nor create any derivative works from all or part of the Software, except in the event of Henix's default
If the Licensee wishes to obtain the required information enabling the implement of the Software's interoperability with another software developed or acquired independently, for a conform use to the Software purposes, the Licensee agrees to consult Henix beforehand, who may give the required information for the execution of this interoperability.

6.4. Unbundling.

The Software may contain various tools, applications and Plugins; it can be working with multiple platforms or languages; provided on several supports or the Licensee may receive several copies. Nevertheless, the Software is created and produced for the Licensee as a single product that the Licensee shall use as such and of which Henix guarantees the overall coordination. The Licensee is not obliged to use every Software Plugins, however the Client undertakes not to, and agrees to ensure that the Licensee does not unbundle the Software Plugins to use them on other SquashTM instances.
The Client undertakes not to, and agrees to ensure that the Licensee does not unbundle or reorganize the Software for distribution, transfer or resale purposes.

6.5. Transfer.

The Client shall not rent or lease, sell, sublease, grant or transfer rights related to the Software, or authorize the copy of the whole or a part of the Software on the servers of another company. The Client imposes these prohibitions on the Licensee and its Users, ensuring that they refrain from assigning, providing, lending or renting the Software, granting any sublicenses or other rights of use therein, or more generally, disclosing all or part of the Software to any third party.
The Client shall not transfer rights to Affiliated Companies.
The Client ensures making all necessary provisions especially secure the access to the server(s) on which the Software is hosted, to avoid any risk of fraudulent copy, of all or part of the Software.

7. SPECIFIC PROVISIONS–CLOUD PREMIUM* AND CLOUD ULTIMATE LICENSES

7.1. Data Management related to the Cloud Instance.

7.1.1. Data of the Cloud Instance.

The data include:

(i) The totality of the information derived from the Licensee as part of its Software usage;
(ii) The information provided by the Client to Henix and taken into consideration to ensure the operation of services.

7.1.2. Property.

The Licensee remains the only data owner.

7.1.3. Storage space.

The Licensee's data storage space, largely sufficient to satisfy the usual use of the Software, is fixed and dedicated to the Licensee.
Henix shall indicate to the Licensee any excessive use of this space that may prevent the proper functioning of the Software.

7.1.4. Data restitution.

Upon expiration or termination of the Agreement, or at any time upon the Client's request, Henix shall:

- Facilitate the retrieval and transfer of the data to another service provider or to the Client's systems;
- Cooperate in good faith with the Client and, where applicable, with the designated third-party provider to facilitate the retrieval and transfer of the data to another service provider or to the Client's systems.

The Client may exercise this request only once (1) during the term of the Agreement and once (1) upon its expiration or termination.
The data shall be returned in the form of a dump of the active database, together, if requested, with the history of data backups.
In case of termination of the contractual relation according to article 17, Henix commits to performing a data restitution to the Client.

The data restitution to the Client occurs, at the latest, during the month following the official report receipt of the data restitution made by the Client.
The data are returned in the form of active database *dump* that may be associated with the data backup history, if requested.
Following the restitution, the Client's data and Software backups shall be deleted by Henix within one month following receipt of the data handover report signed by the Client, or within three (3) months after the restitution if the Client does not return the signed report.
Client
This clause shall apply under the same conditions in the event of Henix's insolvency or cessation of business.
It is expressly agreed between the Parties that Henix shall be released from its obligation to perform the reversibility services referred to above for so long as the Client has not paid in full all invoices issued by Henix in connection with the performance hereof.

7.1.5. Territoriality.

Software data, as well as backups, are stored in France.
Henix personnel providing support and maintenance are located in Montrouge (Île-de-France).
The location of service providers processing personal data is specified in Appendix 3.

7.2. Security.

Henix places particular importance on the security of the information entrusted to it. In this regard, Henix shall roll out technical and organizational measures to prevent any fraudulent access or data use and avert any loss, deformation and data destruction. The details are indicated at the URL https://www.squashtm.com/en/cloud-info

7.3. Backups.

The services include Client data and Software backup procedures. The backups are performed every day at night.
The three (3) latest daily backups are kept, as well as the five (5) latest backups of the first day of every month.
Henix offers the possibility to proceed to a restoration of these saved data to the active data base, in case of necessity agreed between the Client and Henix.
Any restoration required after a failure attributable to Henix is included in the services.
Five (5) restorations at the Client's demand can be made yearly. If more are needed, they will be invoiced additionally. Those restorations will be made following a procedure described in the Technical and service commitments appendix.
Restoration tests are performed once a month to guarantee the effectiveness of the backup and restoration procedures.

7.4. Software availability.

Henix shall do everything that is possible for the Software to be available at a yearly rate that complies with the rate that is indicated in the Technical and service commitments appendix.
In case the Software should not be available, the restoration commitments are indicated in the Technical and service commitments appendix.
To guarantee the availability rate, Henix ensures infrastructure supervision, via a real-time *monitoring* of machine resources and network stream of which it is in charge.

7.5. Performances.

Henix shall bring all necessary infrastructures to work to guarantee the use of services that conforms with the state of the art, within the support time slots, and within a context of use that conforms with the usage perimeter described in the Prices appendix.
Henix's responsibility is limited to the infrastructures of which it is in charge. This therefore excludes the performance degradations due to the Client's or Licensee's network capacity, the infrastructures of the Client's or Licensee's Internet service provider, the Client or Licensee's items used by Users to access the Software services; this list is not exhaustive.

7.6. Access to the Instance.

The access to the Software is secured on the application level by an ID authentication (login and password) or SSO.
When the Client subscribes, Henix communicates the User ID (login and password) corresponding to the Software administrator account to the Client. The Client commits to making any necessary arrangements to guarantee the security of this administrator account, and especially change the password associated to this account at its first connection.
In case of ID authentication:
The access to the Software by a Client's User requires an authentication by means of User ID assigned to every User by the administrator and a password, modified and handled by the User, the Client.
Every User employs their own ID on every connection to the Software.
Henix works on securing access and the use of the solutions, considering the procedures, in accordance with the usual practices.

7.7. Transactions' encryption.

Every transaction between Henix's servers and the Licensees User terminals is encrypted by HTTPS. A *firewall* type system is installed to prevent any connection other than those for the ports necessary for the operation of the Software.

7.8. Software's hermeticity.

The Software made available for the Clients, and the data associated, are isolated from one another.

8. SUPPORT SERVICE - MAINTENANCE

8.1. Definition.

By support and maintenance, the Parties agree that Henix provides the following services during the period of the License:

(a) Support through the helpdesk (see Technical and services Commitments appendix);
(b) Analysis of the root causes of the incidents;
(c) Correction of the potential defect which may be the source of the incidents, in the case the analysis established the responsibility of the Software;
(d) Provision of new Versions.

Support and maintenance services strictly apply to the Software.

8.2. Technical Contacts.

The Licensee designates one or several Technical Contacts; the number is defined in the Technical and services Commitments appendix.
This (these) Technical Contact(s) is (are) the only one(s) empowered to contact the support service to make requests, specifying all the elements required for the good understanding and processing of these requests.
Henix reserves the right to not take into account the requests made by others than the Technical Contact(s).
Once designated, the Technical Contacts report themselves to Henix's support service, communicating *at the minimum* their name and first name, email address and phone number.
The change of Technical Contact is made at the discretion of the Licensee, respecting the prior notice of five (5) working days.
When requested by Henix, a Technical Contact may name one (1) or several third party assisting Henix as part of the request processing and the potential resulting maintenance operations.

8.3. Assistance.

This assistance consists in providing, through the helpdesk made available to the Licensee, the requested and necessary explanations to use the Software functionalities, to the Technical Contact who solicited the Henix teams.
This service is available for the Technical Contact designated according to the contact modalities defined in the Technical and Services Commitments appendix..
The Technical Contact shall apply the recommendations of the assistance service thus formulated.
The assistance service includes the requests linked to the use of different functions of the Software and of its installation, excluding any other request.

8.4. Time for intervention.

The time slots of Henix's interventions is defined in the Technical and services Commitments appendix.

8.5. Updates.

For the purposes hereof, Updates shall mean compilations of the correction of any defects and/or improvements made to the Software. The Client undertakes to ensure that the Licensee acknowledges that the delivery of an Update does not constitute the grant of a new Software License, meaning that the Client undertakes not to, and agrees to ensure that the Licensee does not, use the Update in addition to the Software it replaces, nor assign the replaced Software to any third party. The Software Updates are delivered to the Licensee by Henix on any support and by any means, under a frequency decided by Henix.
Every Update, documentation, or other elements provided in virtue of the Maintenance are automatically considered granted to the Licensee under these terms.

8.6. Corrective maintenance.

8.6.1. General principles.

Henix operates either on its own initiative or on the Client's initiative when an event covered by the maintenance occurs. Only the reproducible defect in the functioning duly reported and documented by the Technical Contact is considered.
Henix provides to this Technical Contact the required information to intend to fix the defect in the functioning in any possible way such as remote maintenance, phone, fax, *etc.*
Henix may use an alternative solution as part of this intervention.
Henix ensures, if required, corrective maintenance, meaning a correction of the instructions specific to the Software that may be the source of the defect. This corrective maintenance leads to the delivery of an Update.

8.6.2. Case of the Cloud Premium* and Cloud Ultimate Licenses.

The Software corrective version upgrades and infrastructure upgrades are performed as needed by Henix, without the prior consent of the Client. The terms are indicated in the Technical and Services Commitments appendix.

8.7. Upgradeable maintenance.

8.7.1. General Principles.

During the term of the License, Henix shall provide the Licensee with Updates of the Version of the Software.
The list of all available versions can be found at https://tm-en.doc.squashtest.com/latest/release-notes/index.html or or upon simple request to the support service.

8.7.2. Case of the Cloud Premium* and Cloud Ultimate licenses.

The Updates are installed when required by the Client within the limit of article 8.8, or by Henix following terms in the Technical and Services Commitments appendix.
Only supported Versions may be subject to a Software upgrade.
An Update is permanent and cannot be subject to a rollback.

8.8. Scope of application and Exceptions.

Support and maintenance services shall apply only to Software Versions supported by Henix. Henix undertakes to support the two (2) latest Versions of the two (2) most recent LTS Branches, as well as the latest Version of the most recent Major Branch (which may itself derive from an LTS Branch).
A list of the supported Versions is available at the following URL: https://tm-en.doc.squashtest.com/latest/release-notes/index.html, or may be obtained upon request from the support team.
The support and maintenance obligations do not apply in the following cases:

(a) The use of the Software when it deviates from the operational procedures described in the documentation;
(b) The support in relation with the use of Third Party Software whether they are delivered with the Software or not;
(c) The outcome of the Software and of the Third Party Software;
(d) Support and maintenance on APIs, interfaces or data format from Third Party Software;
(e) The assistance and maintenance on Runtime Environment
(f) The assistance and maintenance on the organization and writing of automated tests
(g) In case of problem caused by Third Party Software, including those used together with the Software;
(h) In case of malfunction of the Licensee's System; or
(i) When the problems were solved in an Update that the Licensee chose not to use;
(j) When the problem is a consequence of Modified Code by others than Henix.

8.9. Duration and date of effect.

The Maintenance begins on the date of effect of the License for a duration indicated in article 4.

8.10. Agreement on the use of data.

Henix and its personnel may collect, maintain, process and use diagnostic, technical and related information, including,

without limitation, information relating to the User, the User's computer, System, software and peripheral devices, for the purpose of facilitating maintenance services. Henix shall use such data solely for the purposes set out in the General Terms and Conditions of Sale and shall never reuse such data for its own purposes. Henix may use technical information exclusively for the purposes of improving its products and delivering services and technologies to the Customer, and for no other purpose.
Upon termination of the contractual relationship in accordance with the article 21 Termination, Henix shall delete all Customer data collected in the course of providing support or maintenance services within a maximum period of three (3) months from the date of termination of the contractual relationship.

8.11. EXCLUDED SERVICES.

8.11.1. Services not included.

The services below cannot, in any circumstances, be included in the support or the maintenance:

(a) The files reconstitution in case of accidental destruction;
(b) The development of new functionalities requested by the Client;
(c) The training of the Licensee's staff working on the System;
(d) Other software or plugin than those specified that may work with the specified Software;
(e) Specified softwares or plugins that may have been modified by others than Henix;
(f) The modifications to make on the Software requested exclusively by the Licensee, other than the corrections and the evolutions made by Henix.

8.11.2. Other Excluded Services - Case of the Server Premium and Server Ultimate Licenses.

The services below cannot, in any circumstances, be included in the support or the maintenance:

(a) The operation of the Software;
(b) The operation and files backups ;
(c) The System, the accessories and the supplies.

8.12. USE OF THIRD PARTY SOFTWARE.

The Licensee is responsible for the use he makes of Third Party Software.

9. PRICES

9.1. CURRENCY.

All prices are in euro. The totality of the price shall be paid in euro.

9.2. UNIT PRICES.

The Prices Appendix sets out, if appropriate, the unit price for the products or services concerned by these terms and conditions.

9.3. PRICES DEVELOPMENT.

The prices applicable to the products and services shall be those set out in the price lists, offer, or quotation in force on the date of issuance of the quotation. Henix shall invoice the ordered products and services at the prices stated in the quotation. Henix grants itself the right to change prices at any time without liability whatsoever. These new prices are applicable only from the date of renewal, tacit or express, of the contract, and to the condition that Henix notify it to the Client at least three (3) months before those changes take effect by an e-mail sent to the Technical Contact, see 8.2. In case of refusal of these new prices by the Client, the contract is cancelled by right.

9.4. TAXES.

These prices do not include the value added tax, any other local tax or any customs duty. Any Taxes due to purchases made as part of these terms and conditions shall be paid, if applicable, by the Client.

9.5. TRAVEL EXPENSES, SERVER PREMIUM AND SERVER ULTIMATE LICENSES.

The travel expenses engaged to reach the Client's or Licensee's location, outside the Île-de-France region, France, are invoiced, on presentation of proofs and to the extent of the following elements:

(a) Transportation up to the SNCF 2nd class tariff or mileage allowance up to the scale published by the French government in "Le Journal Officiel";
(b) Accommodation, breakfast and dinner, up to two hundred (250) euro tax excluded per day.

9.6. PRICE REDUCTION.

No discount whatsoever is granted in case of advance payment. No discount (price cut, rebate, reduction, *etc*) is generally granted.

9.7. REVALUATION ABOUT NUMBER OF USERS.

The Client can ask for an upward adjustment of the maximum number of authorized users. The ongoing License is then interrupted, and the Client is paid off a *prorata-temporis*-calculated sum, based on the remaining duration between the time of his request and the end of the Period of Validity of the License. A new License with a one (1) year commitment is invoiced based on the current applicable prices available on the website at https://www.squashtm.com/en or available upon request.
A downward adjustment of the maximum number of authorized users is only possible at contract renewal time, complying with a one (1) month notice, and based on the current applicable prices at the time of the request.

10. PAYMENT

10.1. PRINCIPLES.

The License and the associated maintenance services are purchased according to terms defined in article 3. Their effective date is defined in article 4. The price to access the services cannot be based on the actual use.

10.2. PAYMENT METHOD.

Payment is exclusively made by bank transfer or bank cheque. In case of payment by bank cheque, this one shall be issued by a bank located in metropolitan France. The cashing of the cheque is made upon receipt.

10.3. PAYMENT PERIOD.

The invoice of the services is made by Henix on the effective date of the License then on the anniversary date of the Subscription. The payment shall occur thirty (30) days from the issue date of the invoice. Payments made by the Client are considered definitive only after the effective cashing of the sum of money due to Henix.

10.4. LATE FEE OR NON-PAYMENT.

Any delay or non-payment on due date indicated on the invoice automatically leads to:

- Firstly, the immediate payment of any total due.
- Secondly, the calculation and the payment of a late fee in the form of interests, the sum shall be equal to one (1) time the interest rate applied by the European Central Bank to its most recent refinancing exercise augmented of ten (10) percentage points. This rate cannot be lower than three times the French legal rate of interest. This late fee is calculated on the amount (all tax included) of the remaining due sum, and begins from the day after the latest date for payment indicated on the invoice. It ends when the amount is entirely paid, without using payment reminders or formal notices. The sum is calculated *prorata temporis*.
- Thirdly, the right for Henix to suspend the execution of the service in progress and to delay any new order or delivery.
- Fourthly, an obligation for the debtor to pay a forty (40) euros lump sum for recovery costs. An additional allowance may be demanded, upon presentation of relevant proof, when the recovery costs incurred are higher than the lump sum.
- Fifthly, any later payment for whatever reason, shall be immediately imputed and, by priority, to the extinction of the oldest debt.

11. OBLIGATIONS FROM HENIX

11.1. OBLIGATION TO INFORM.

Henix must inquire into the Licensee's needs, inform him with any useful information concerning the service to deliver, suggest an appropriate solution to his issues as far as the issues appear to be in the rational context of the company and to warn him against any potential limits of the suggested solution.

11.2. WARNING OBLIGATION.

Henix intends to warn the Client against any risk noticed that may be prejudicial to the good application of these terms and conditions. If applicable, the Client may be invited to modify or replace the equipment or the Software in question.
Nevertheless, this obligation does not extend to a potential staff training related to these changes.

***11.3.* COUNSELLING OBLIGATION.**

Henix must inform the Licensee, and even advise him, communicating to him any potential useful information.

11.4. ADMINISTRATIVE FORMALITIES

Henix shall be solely responsible for the proper fulfilment of all administrative, tax and/or social security obligations, as well as for the payment of any contributions, duties, taxes or other charges of any nature for which it is liable in connection with the Software. The Customer shall not, under any circumstances, be held liable in this respect.

11.5. LIMITATION OF LIABILITY.

In the case of Server Licenses:
In the event of data or software loss, regardless of the cause, Henix cannot be held responsible for this loss insofar as, with regard only to the Server Licenses, the Licensee remains responsible for properly performing backups and for using the software for which they have acquired licenses.
. Henix shall be liable only for direct losses suffered by the Licensee and resulting exclusively from Henix's gross negligence, willful misconduct, or breach of an essential contractual obligation in a manner that deprives such obligation of its substance.
Henix shall not be liable for any indirect incurred by the Client, including any loss of profits or revenue , and the resulting damages of: an improper use, an abusive use of the Software by the Licensee; a mistake, a negligence or an abusive interference from the Client, the Licensee or the Users; a defective electrical installation; non-compliance to the installation or operating instructions; an intervention on the Software made by a third party expressly non-recognized by Henix as well as any damage resulting from the use of non-recognized provisions and equipment; of Force Majeure or due to a third party.
Unless otherwise provided by law, the liability for direct damages from Henix under these terms and conditions shall not exceed the total paid by the Client under his current contractual relation with Henix; and, insofar as these damages result from the use of software or services responsible for the damages, the total paid by the Client for the software and services responsible for the damages.
These terms and conditions spread risks between Henix and the Client; the agreed prices reflect this division of risk and the resulting limitation of liability.
Henix shall not be liable unless the Client has notified its claim by registered mail with acknowledgment of receipt within one (1) month of the occurrence of the event giving rise to the claim.
The Client shall hold harmless Henix from and against any and all complaints, claims, actions, proceedings and demands arising out of or in connection with the Client's breach of any obligation under these General Terms and Conditions of Sale. The Client shall bear all costs, expenses, losses, liabilities and damages incurred by Henix as a result thereof.

12. CLIENT'S OBLIGATIONS

12.1. COMMITMENT TO CO-OPERATION.

In general, the Client shall provide support to Henix in the execution of the services and commits to collaborating to enable a better execution of the due services.
The Client shall inform Henix of any defect in the functioning of the Software that may require a revision of the supported Software.
The Client must accept any supported version of the Software offered by Henix for free and according to the modalities provided in the Technical and Service Commitments appendix.

12.2. COMMITMENT TO TRANSPARENCY.

The Client commits to informing Henix under one (1) month by a letter with acknowledgement of receipt of any modification of the information communicated during the order (shipping address, invoicing information, banking details, *etc.*).

12.3. TERMS AND CONDITIONS ENFORCEMENT.

The Client commits to respecting the Software's contractual conditions of use, to apply strictly the instructions given by Henix as part of the passed-up request process and to respect the totality of the stipulations in these terms and conditions.

12.4. OPERATION ON THE SOFTWARE.

The Client commits to carrying out any installation of a new Version, any revision or any intervention concerning the

Software either by the Licensee's teams, by the Client's team, by Henix or by a third party.
In the case of Server Licenses:
The installation of any new Version, any Upgrade, and any services relating to the Software are not included in the License fee and shall be subject to a separate charge, upon the Client's request, and invoiced separately.
In the case of Cloud Licenses:
The installation of any new Version, any upgrade, and any services relating to the Software provided under the Agreement, excluding any custom developments, are included in the License fee.

12.5. Reasonable Use of the Software.

The Client shall use, and shall ensure that the Licensee uses, the Software in a reasonable manner and in accordance with its intended purpose.

12.6. Installation and maintenance on Runtime Environments for automated tests.

The following provisions shall apply exclusively to Server Premium and Server Ultimate Licenses in cases where the Licensee elects to use the test automation functionalities provided through SquashTM orchestration. The Licensee commits to perform the installation and maintenance of the Runtime Environments for automated tests.
The Licensee ensures that the automated tests they wish to execute work correctly in this Execution Environment, both at its creation and after any maintenance operations on it.
The Licensee must ensure that the Agent provided to them by Henix is installed on the Runtime Environment(s). The Licensee is also responsible for updating the Agent with a new Version when Henix indicates that such an update is necessary. The Agent, being a component of the Software, is subject to the provisions described in this document, particularly regarding support and maintenance.

12.7. Reporting Obligations.

Clients holding a Server Premium or Server Ultimate License shall provide Henix, every six (6) months, with a declaration of the number of Authorized Users, as defined in Article 5.2, for each SquashTM Instance. This declaration shall be submitted no later than thirty (30) calendar days after the end of the relevant reporting period.
To satisfy this reporting obligation, the Client shall submit to SquashTM Support an instance report consisting of a screenshot of the "Administration – System" page for each production instance of the Software.

12.8. Exclusivity of License Type.

The Client commits to buying only one type of License. This means that the Client cannot have a Premium License and a Ultimate License at the same time.

12.9. No poaching.

The Client expressly undertakes not to solicit or employ, directly or indirectly, any member of Henix's personnel from the effective date of the License and for a period of one (1) year following the termination or expiration of the License. Should the Client breach this obligation, it shall indemnify Henix by paying, immediately upon first demand, a lump-sum amount equal to twelve (12) times the employee's gross monthly salary as of the date of his or her departure.

12.10. Non-Competition.

The Client shall refrain from developing, marketing, commercializing, or otherwise exploiting any services or Software that are competitive with the Software.

12.11. User Responsibility.

The Client shall be solely responsible for its use of the Software and, in particular: (i) for the use of the Software by the Users, for whom the Client acts as guarantor, and (ii) for any relationships that may arise between the Client, the Users and third parties, including any disputes or claims arising out of or in connection with the use of the Software. Henix shall in no event be liable in this respect.
In particular, the Client shall be responsible for any misuse, unauthorized use or unlawful use of the Software by the Users, including any breach of applicable laws and regulations. The Client shall be solely responsible for implementing all procedures necessary to prevent or remedy the commission of such acts.
The Client shall also promptly notify Henix of any attack, potential threat, or attempted intrusion by third parties into User accounts.

13. OBLIGATIONS RELATING TO THE PREVENTION OF UNDECLARED WORK

Upon the Client's request and as often as necessary until the completion of the performance of the General Terms and Conditions of Sale, Henix shall provide the Client with the following documents:

a. a document evidencing the company's registration, issued no more than three (3) months prior to the request (an identification card in the case of registration with the Trade and Crafts Register, or a K or K-bis extract in the case of registration with the Trade and Companies Register);
b. a valid vigilance certificate (*attestation de vigilance*) confirming the filing of the required social security declarations, issued by the social protection body responsible for collecting social security contributions and charges;
c. where Henix employs foreign employees who are subject to a work authorization requirement in France, a nominative list of such employees, including their surname, given name, nationality, and the type and number of the permit constituting their authorization to work.

14. INTELLECTUAL PROPERTY

14.1. Free software Plugins.

Some Software Plugins and third-party free software Plugins that come with it are or may be made available by Henix on the website https://www.squashtm.com/en

14.2. Scope of rights granted on Plugins.

Henix grants the Licensee the following rights on the Plugins, for all destinations and for the duration of the License under the following conditions.
Henix is and remains the owner of the property rights relating to the Plugins made available for the Licensee.
Henix concedes to the Licensee a personal, non-exclusive and non-transferable right to use the Plugins, for the duration of the License.
The Licensee can only use the plug-ins in accordance with its requirements and their documentation.
The Licensee and the Client are never allowed to redistribute copies of the Plugins to third parties, including affiliate companies, in any form whatsoever.

14.3. Henix Intellectual Property Rights.

Henix is and shall remain the sole owner of all intellectual property and proprietary rights relating to the application services and the Software made available to the Licensee.
Henix grants the Licensee a personal, non-exclusive, non-assignable and non-transferable license to use the Software throughout the term of the License.
The Software and the application services shall be used solely in accordance with their intended purpose and the applicable documentation. Henix keeps the full ownership of all its IT developments or other elements of which it is the author under these terms and conditions, apart from the files of which it ensures the process for the account of the Client (example: data given as part of the request processing). The data given by the Licensee to Henix as part of the passed-up requests processing are deleted as soon as the solution is found.

14.4. Expertise.

Henix shall retain exclusive ownership of all know-how developed in the course of providing its services. Copyright and intellectual property.
The Software is protected by laws and international treaties concerning copyright and intellectual property. All the titles and copyrights related to the Software (including those related to any image, photograph, animation, any video or audio element, any text, clipart, form, and applet included in the Software) are owned by Henix.

14.5. No Transfer of Ownership of the Commercial Version of the Software .

These Terms do not confer upon the Licensee or the Client any ownership rights in the Software, which shall remain the exclusive property of Henix.
Accordingly, any disassembly, decompilation, decryption, extraction, reuse, copying or, more generally, any reproduction, representation, distribution or use of any component of the Software, in whole or in part, without Henix's prior authorization, is strictly prohibited and may give rise to legal proceedings.
The grant of a non-exclusive, individual right to use the Software under the terms hereof shall not be construed as a transfer or assignment of any Intellectual Property Rights to the Client and/or the Licensee within the meaning of the French Intellectual Property Code.
The Client shall, where appropriate, include any proprietary notices in documents referring to the use of the aforementioned Software.
The Client shall not, and shall ensure that the Licensee does not, perform any reverse engineering of the Software, decompile the Software, or disassemble the Software within the meaning of Article L.122-6-1 of the French Intellectual Property Code.

14.6. No Reproduction of the Commercial Version of the Software

The Client shall not reproduce, and shall ensure that the Licensee does not reproduce, in whole or in part, any element of the Software by any means, in any form, or on any medium whatsoever.

14.7. Counterfeit.

Henix or any third party who may be named as his successor, for whatever reason, defends and guarantees the Client against any complaint, trial or lawsuit from any third party on the grounds that the Software may be a counterfeit of copyrights or patents protected in France or abroad.
Henix's obligations are expressly subject to the following conditions:

(a) The Client informs Henix of any complaint or action based on the counterfeiting of a copyright or a patent within thirty (30) days after receiving the registered letter with acknowledgement of receipt;
(b) The Client communicates to Henix any information in his possession related to this complaint;
(c) The Client liaise with Henix to choose the defenders who will oversee the follow-up and the resolving of the dispute; and
(d) The Client completely cooperates with Henix on anything concerning the defense, the dispute or the resolving of the dispute.

If the Software was determined to be a counterfeit of another product, or if Henix should consider it as such, Henix shall either obtain the right for the Client to keep using the Software, or replace the Software by a product with the same functionalities but which is not considered as a counterfeit, either modify the Software in order to stop the counterfeiting, or terminate this License and return the unamortized portion of costs of the paid royalty fee in accordance with these terms and conditions.

15. CONFIDENTIALITY

15.1. Henix's obligation of confidentiality.

Henix commits to keeping strict secrecy of the information, the maintenances, the documents, the methods and expertise of the Client of which it may have had access to as part of these contractual relations, both while the License is effective and after the completion date, and this during two (2) years.

15.2. Employees' obligation of confidentiality.

That information is only provided to Henix's employees who require them to fulfill their missions. Henix applies the same confidentiality obligation to their employees and this during the same duration.

15.3. Client Confidentiality Obligation.

The Client shall keep strictly confidential all processes, techniques, plans and studies developed by Henix, whether patentable or not, that are not protected by Intellectual Property Rights and constitute Henix's proprietary know-how. The Client shall also keep strictly confidential all commercial and financial information and documents disclosed by Henix. The Client further undertakes not to reuse, without Henix's prior written consent, any documents prepared by Henix in connection with any subsequent transaction, project or engagement. This confidentiality obligation shall apply throughout the contractual relationship between the parties and shall survive the expiration or termination of the License for a period of two (2) years. Exception: agreement between the Parties.
At the Client's express request and subject to Henix's prior consent, information covered by the confidentiality obligation may be disclosed to third parties.

15.4. EXCEPTION: LEGAL OBLIGATION TO DISCLOSE.
This obligation of confidentiality is inappropriate for any reveal of information made under the law or if required by a supervisory authority or an empowered judicial authority. In case of order from such authority, requesting communication of the totality or a part of the information covered by the obligation of confidentiality, the business and contractual agreements secrecy, Henix commits to informing the Licensee of the existence of this injunction forthwith.

16. PERSONAL DATA – GENERAL PROVISIONS

Each Party undertakes, with respect to its own activities, to comply with all applicable legal and regulatory obligations relating to the protection of Personal Data, including French Law No. 78-17 of 6 January 1978, as amended, known as the French Data Protection Act (*Loi Informatique et Libertés*), and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (GDPR) (together, the "Applicable Data Protection Laws").
For the purposes of managing the contractual relationship between the Parties, each Party processes the Personal Data of the other Party's representatives as a data controller within the meaning of the Applicable Data Protection Laws, for the duration of the General Terms and Conditions of Sale. Such processing is necessary for the performance of the General Terms and Conditions of Sale and is limited to identification data (including surname, first name, email address and telephone number) relating to such representatives. Such data shall be retained only for the period strictly necessary to manage the contractual relationship between the Parties.
The Parties' personnel, their auditors and other supervisory bodies, and their respective processors or subcontractors may have access to the Personal Data collected.
Such processing may give rise to the exercise by the Parties' representatives of the rights granted under the Applicable Data Protection Laws, namely: (i) the right to access and, where appropriate, rectify or erase their Personal Data; (ii) the right to request the erasure of, or restriction of processing of, their Personal Data; (iii) the right to object to processing on legitimate grounds; (iv) the right to data portability, enabling them to retrieve and retain their Personal Data; and (v) the right to lodge a complaint with a competent supervisory authority.

17. PERSONAL DATA – SERVER PREMIUM LICENSE AND SERVER ULTIMATE LICENSE

Each Party represents and warrants that it complies with the Applicable Data Protection Laws.
In the performance of the License, Henix shall not have access, in any manner whatsoever, to the Client's Personal Data (as such term is defined in the GDPR).
Accordingly, no processing of Personal Data by Henix on behalf of the Client shall occur, and the Parties acknowledge that Henix does not act as a processor within the meaning of the GDPR.

18. PERSONAL DATA – CLOUD PREMIUM AND CLOUD ULTIMATE LICENSES

In connection with the Licensee's use of the Software, Henix processes Personal Data on behalf of the Client in its capacity as a processor, while the Client acts as the controller within the meaning of the Applicable Data Protection Laws. The details of such processing are set out in Appendix 3 to the General Terms and Conditions of Sale.
Henix shall not be liable for Personal Data uploaded or entered into the Software by the Client, except for the Personal Data of Users in respect of which Henix acts as a processor on behalf of the Client.

18.1. PROCESSING OF PERSONAL DATA.
Henix undertakes to process Personal Data solely for the purposes set out in Appendix 3 and in accordance with the Client's documented instructions, including with respect to transfers of data outside the European Union. Henix shall inform the Client if, in its opinion, any instruction constitutes a breach of the Applicable Data Protection Laws. Henix reserves the right to suspend the processing, without incurring any contractual liability as a result of such suspension, until the Client modifies the relevant instruction so that it no longer violates the Applicable Data Protection Laws. Such suspension shall not give rise to any refund of the License fee for the duration of the suspension. If the Client fails to modify and instead maintains the relevant instruction, Henix reserves the right to terminate the Agreement with immediate effect and without liability.
Furthermore, where Henix is required, pursuant to the law applicable to the General Terms and Conditions of Sale, to transfer Personal Data to a third country or an international organization, Henix shall inform the Client of such legal requirement prior to the processing, unless the relevant law prohibits such disclosure on important grounds of public interest. Security and Confidentiality of Data
Henix undertakes to implement appropriate technical and organizational measures to ensure the security and integrity of Personal Data, including the backup of such data and the restoration of its availability in the event of a physical or technical incident. Henix shall also ensure that any persons authorized to process Personal Data are subject to an obligation to maintain the confidentiality of such data.

18.2. OTHER PROCESSORS.
Henix is authorized to engage the processors (the "Sub-processors") listed in Appendix 3 to carry out specific processing activities. In the event of any change to the list of authorized Sub-processors, Henix shall notify the Client in writing in advance. Such notice shall clearly identify the processing activities delegated, as well as the identity and contact details of the relevant Sub-processor. The Client shall have a period of fifteen (15) days from receipt of such notice to raise any legitimate and reasoned objections. In the absence of any objection within such period, the Client shall be deemed to have accepted the appointment of the Sub-processor.
Henix shall ensure that each Sub-processor provides sufficient guarantees for the implementation of appropriate technical and organizational measures so that the processing meets the requirements of the Applicable Data Protection Laws. Where a Sub-processor fails to fulfill its data protection obligations, Henix shall remain fully liable to the Client for the performance of the Sub-processor's obligations.

18.3. TRANSFER OF PERSONAL DATA OUTSIDE THE EUROPEAN UNION.
Henix is authorized to transfer Personal Data processed in connection with the License to countries located outside the European Union, provided that appropriate safeguards are implemented in accordance with Chapter V of the GDPR

18.4. ASSISTANCE AND PROVISION OF INFORMATION RELATING TO PERSONAL DATA.
Henix undertakes to:

- assist the Client and respond as promptly as possible to any request for information submitted by the Client, whether in connection with a data protection impact assessment or a request from a data protection authority or the Client's data protection officer;
- to the extent possible, assist the Client in fulfilling its obligation to respond to requests from Data Subjects seeking to exercise their rights under the Applicable Data Protection Laws. Where such requests are addressed directly to Henix, Henix shall forward them to the Client as soon as possible by email to the address provided by the Client;
- notify the Client as soon as possible after becoming aware of any Personal Data Breach affecting the processing activities covered by the General Terms and Conditions of Sale and provide the Client with all relevant information and documentation relating to such Personal Data Breach.

18.5. RETURN OR DELETION OF DATA.
Upon expiration or termination of the License, Henix shall, at the Client's election, either delete all Personal Data or return such Personal Data to the Client and shall not retain any copies thereof, unless retention is required by Applicable Data Protection Laws.
The Client shall have a period of three (3) months following the end of the License to communicate its choice. Upon expiry of this period, Henix shall delete all Personal Data.

18.6. DOCUMENTATION.
Upon the Client's request, Henix shall make available all information and documentation necessary to demonstrate compliance with its obligations and to enable audits to be carried out. The Client may, at its own expense and no more than once per calendar year, conduct an audit in order to verify Henix's compliance with the obligations set out in this Article. The Client shall provide Henix with at least two (2) weeks' prior notice of any such audit. The identity of the auditor shall be subject to the Parties' mutual agreement. Henix reserves the right to reject the proposed auditor, including where the auditor belongs to a competing company. The audit shall be conducted during Henix's normal business hours and in a manner that minimizes disruption to its business operations. Under no circumstances shall the audit adversely affect: (i) the technical and organizational security measures implemented by Henix; (ii) the security and confidentiality of data relating to Henix's other clients; or (iii) the proper functioning and organization of Henix's operations. To the extent practicable, the Parties shall agree in advance on the scope of the audit. The audit report shall be provided to Henix to allow it to submit any comments or observations in writing, which shall be appended to the final version of the audit report. Each audit report shall be treated as Confidential Information.

18.7. REUSE OF DATA BY HENIX.
The Client hereby authorizes Henix to process Personal Data collected in connection with the Services (including, without limitation, data relating to the use of the Software) for the purpose of improving Henix's services, including the production of statistics regarding the manner in which the Software is used by Users.
For such processing activities, Henix shall act as a Controller within the meaning of the Applicable Data Protection Laws and undertakes to comply with all applicable data protection requirements in connection with such processing.

18.8. OBLIGATIONS OF THE CLIENT TOWARDS HENIX.
The Client undertakes to:

- provide Henix with the Personal Data identified in Appendix 3, excluding any Personal Data that is irrelevant, excessive or unnecessary for the purposes of the processing, and excluding any special categories of Personal Data within the meaning of the Applicable Data Protection Laws, unless such processing justifies their use, in which case the Client shall be responsible for establishing the legal basis for such processing and implementing all appropriate measures, including prior information, consent collection and security measures;
- collect, under its own responsibility and in a lawful, fair and transparent manner, the Personal Data provided to Henix for the performance of the Services and, in particular, ensure that it has an appropriate legal basis for such collection and has provided the required information to the Data Subjects;
- maintain a record of processing activities and, more generally, comply with the principles and requirements set out in the Applicable Data Protection Laws;
- ensure, both prior to and throughout the duration of the processing activities, compliance with all obligations imposed by the Applicable Data Protection Laws.

19. ARTIFICIAL INTELLIGENCE

The Client may elect to connect the Software to a Large Language Model ("LLM") to enable artificial intelligence functionalities. Such LLM is neither provided nor operated by Henix.
Henix provides an artificial intelligence agent platform that may be used in connection with the Software.
The Software and the artificial intelligence agent platform provided by Henix do not constitute a prohibited AI system or a high-risk AI system within the meaning of Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence (the "AI Act").

20. AUDIT

During the term of these General Terms and Conditions of Sale, either Party may, at its own expense and provided that it gives the other Party at least thirty (30) days' prior notice by registered letter with acknowledgment of receipt, request an audit at the premises of the other Party or at any other location enabling it to verify the audited

Party's compliance with its obligations under the General Terms and Conditions of Sale.
The auditing Party may request no more than one (1) audit per year and, where applicable, a second follow-up audit to verify the implementation of any remedial actions identified following the first audit.
The Parties expressly acknowledge and agree that such audit may be conducted either by the auditing Party's internal auditors or by an external service provider of its choice, provided that such auditor is not a competitor of the audited Party.
The audited Party may raise objections regarding the selection of the auditor.
The audited Party shall provide the auditor with access to its premises and to all documentation reasonably necessary for the purposes of the audit during normal business hours. The auditing Party shall comply with, and shall procure that its appointed auditor complies with, the audited Party's requirements regarding access to its premises and confidentiality.
In particular, neither the auditing Party nor its appointed auditor shall be entitled to access the audited Party's trade secrets, strategic information, or any information that the audited Party is under an obligation to keep confidential.
The auditing Party shall provide the audited Party with a copy of the audit findings by any appropriate written means. The audited Party shall have thirty (30) calendar days from receipt of the audit report to submit any comments or observations to the auditing Party.
Where an audit report identifies a material breach by the audited Party of its obligations in the area covered by the audit, the audited Party shall take all necessary corrective actions to remedy such breach as promptly as possible.

21. TERMINATION

21.1. By the Client.

21.1.1. General provisions

The License can be cancelled automatically by the Client, without any prejudice to all damage and interests, in the following cases:

(a) Refusal of the License, renewal according to the terms specified in article 4;
(b) Refusal of new tariff conditions established under the terms of Article 10.3;
(c) Serious lack by Henix of its obligations, after formal notice by registered letter with acknowledgment of receipt remained unsuccessful within thirty days (30) days from the date of first presentation.
In this case, Henix shall reimburse the services paid pro rata of the remaining period after the last day of the month of the termination.

The Client's request to reduce the current commitments – through tariff downgrading and/or restrict the number of allowed Users is not a reason allowing the cancellation of the License.

21.1.2. Termination Due to a Change of Service Provider

Pursuant to Articles 25 and 29 of Regulation (EU) 2023/2854 (Data Act), the Client may terminate this Agreement early for the purpose of switching to another service provider.
The Client shall notify Henix in writing of its request to switch service providers. The termination shall take effect two (2) months after receipt of such notice, in accordance with Article 25 of the Data Act.
No refund shall be due to the Client in respect of any unused portion of the subscription period.
Upon expiry of the two (2)-month notice period, the Agreement shall automatically terminate. The Parties shall be released from their future obligations under the Agreement, without prejudice to the Client's obligation to pay any amounts due to Henix under the License.

21.2. By Henix.

The License can be terminated automatically by Henix, without any prejudice to all damages and interests, in the following cases:

(a) Serious failure of obligation from the Client; or
(b) Non-payment of the amounts due to Henix by the Client; or
(c) If one of the stipulation or obligation of this text is not respected.

In any case, the termination shall occur only without regularization of the noticed failure(s) at the end of a thirty (30) days period after receiving a formal notice addressed by registered letter with acknowledgement of receipt.

21.3. Effects of termination.

Upon automatic termination of the License, the Client shall remove all Plugins included in the License. Henix shall also delete all data transmitted by the Licensee in connection with the processing of requests submitted by the Licensee.
Termination or expiration of the License shall be without prejudice to any provisions which, by their nature or express terms, are intended to survive such termination or expiration, including, without limitation, the sections entitled "Intellectual Property", "Confidentiality", "Non-Competition", "Non-Solicitation" and this Section.

22. RIGHT OF WITHDRAWAL

22.1. Conditions for exercising the right of withdrawal.

If the order was placed off-premises *(i)*, and if the subject does not enter the scope of the Client's main activity *(ii)*, and that the number of employees is lower or equal to five (5) *(iii)* (these three conditions are cumulative), within the fourteen (14) calendar days from the day after the day of validation of the order, the Client has the right to withdraw, provided that Henix is informed, according to article L. 221-28 of the French Consumer Code. Concerning the respect of the deadline, notification shall be sent before the time limit set.

(Complete and return this form only if you wish to withdraw from the contract.)
For the attention of Henix company, 1, Rue François Ory, 92120 Montrouge (Delete as appropriate):
I/we inform you hereby of my/our withdrawal from the contract concerning the sale of the good/the service provision below:
Ordered on/received on:
Client(s) name(s):
Client(s) address(es):
Client(s) signature(s) (only in case of notification of this form on paper:
Date:

22.2. Withdrawal renunciation.

If the Client shows expressly his willingness that the License starts before the expiry of the withdrawal period, he is obliged to expressly notify his renunciation to withdraw.

23. FORCE MAJEURE

23.1. limitation of liability.

None of the parties can be held responsible in case of non-performance, lateness or improper performance of the contractual stipulations if a force majeure event occurs. In these terms and conditions, "Force Majeure" is defined as in article 1218 of the Civil Code in accordance with the order n° 2016-131 of February 10th, 2016.

23.2. Notification and consequences.

In those circumstances, the Party invoking the Force majeure must inform the other Party by all means, endeavor to limit the impact, and execute again the contractual conditions as soon as the effects of Force Majeure stopped.

23.3. Suspension of contractual obligations.

Force majeure shall suspend the performance of the affected contractual obligations, and the performance of such obligations shall be postponed for a period equal to the duration of the suspension. if the suspension continues for more than fifteen (15) calendar days, either Party may terminate this Agreement in accordance with the "termination" article.

24. ASSIGNMENT AND CHANGE OF CONTROL

24.1. Assignment of the Terms and Conditions of Sale.

In the event of a merger, acquisition, assignment, or transfer of Henix's business or activities to a third-party legal entity, Henix shall notify the Client in writing, where reasonably practicable before completion of such transaction and, in any event, within fifteen (15) days after its completion. Notwithstanding the provisions of the "Term" clause, the other Party may terminate the Agreement by registered letter with acknowledgment of receipt within three (3) months of such notification. If no such termination notice is given within this period, the Agreement shall continue automatically and remain binding on the Parties.

24.2. Change of Control.

In the event of a change of control of Henix, Henix shall notify the Client in writing of such change, where reasonably practicable prior to its completion and, in any event, no later than fifteen (15) days after it occurs. Notwithstanding the provisions of the Term clause, the Client may terminate the Agreement by providing written notice to Henix by registered mail with return receipt requested within three (3) months following receipt of such notification. If the Client does not exercise this termination right within such three (3)-month period, the Agreement shall continue automatically and remain in full force and effect

25. SEVERABILITY

The invalidity, lapse, unenforceability, or non-binding nature of any provision of this Agreement shall not affect the validity, enforceability, or binding effect of any other provision, which shall remain in full force and effect. Accordingly, if one or more provisions of this Agreement are held to be invalid or declared as such pursuant to any applicable law, regulation, or final decision of a court of competent jurisdiction, the remaining provisions shall continue in full force and effect. The Parties shall in such case negotiate in good faith to replace the invalid or unenforceable provision with a valid and enforceable provision that most closely reflects the intent and economic effect of the original provision. If such replacement is not possible, or if the overall purpose and balance of the Agreement would be fundamentally impaired as a result, the Parties may, by mutual written agreement, declare this Agreement terminated in its entirety..

26. GOVERNING LAW

26.1. French laws.

This Agreement shall be governed by and construed in accordance with the laws of France. Any dispute arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the French courts. .

26.2. Friendly settlement of disagreement and mediation.

In case of disagreement related to the validity, the interpretation, the execution or the non-compliance, the interruption or the cancellation of the License, the Parties commit to try achieving a friendly solution before taking any legal action, directly with one another, then for lack of agreeing on a friendly solution, by calling on a mediator for mediation purposes, at risk of inadmissibility of any legal action.
For this purpose, the Parties shall address to the Paris Mediation and Arbitration Center (CMAP) – Paris Chamber of Commerce, and shall share equally the costs related to this mediation.

26.3. Jurisdictional settlement of the disagreement: territorial jurisdiction.

In the circumstances in which, owing to the Client's legal quality, the provisions of article 48 of the Code of Civil Procedure shall be applicable:
If a friendly solution cannot be found in case of disagreement between the Parties as for the validity, the interpretation, the execution or non-compliance, the interruption or the cancellation of these terms and conditions, jurisdiction shall only fall to the Paris Commercial Court, regardless of the location of execution of these terms and conditions, the defendant's place of residence or the accepted payment type, and despite the defendant's cases of plurality or guarantee call, even for emergency procedures or precautionary procedures by way of interlocutory procedure or request.

The Client admits having taken knowledge of the General Terms and Conditions herein and their two (2) additional documents and states accepting them as integral part of the contractual agreement with Henix.

Company **Name:**

Address:

Scope:

- ☐ Server Premium License
- ☐ Server Ultimate License
- ☐ Cloud Premium* License
- ☐ Cloud Ultimate License

Date:

Name, **First** **name:**

Signatory **Function:**

Signature and company's stamp:

APPRENDIX 1

TECHNICAL AND SERVICE COMMITMENTS

1. PRELIMINARY DEFINITIONS

"Analysis": Means the action to respond to a call from the Client. The response depends on the nature of the call:

- *Assistance Request*: the answer is to provide the Client with necessary information for the proper use of the Software.
- *Non-critical incidents:* the response indicates to the Client if the declared incident is *(1)* due to the Software (anomaly / issue), *(2)* of a misuse of the Software or *(3)* is not dependent of the Software.
  In the case *(1),* it is to provide to the Client an issue number and the schedule of its correction in accordance with the deadlines specified in article 3 of the Technical and Service Commitments appendix.
  In the case *(2),* the incident is requalified as an assistance request and related as so.
  In the case *(3),* the incident is not the responsibility of Henix and the call is requalified as an assistance request.
- *Critical incident:* the correction must free the Client from the issue if the incident is attributable to cases *(1)* or *(2) or (3)* above.
  In case *(1),* the resolution can be the delivery of a Version of the Software correcting the stated blocking anomaly OR a proposal for a workaround to reclassify the incident as "non-critical" OR any other intervention from the Provider to reclassify the incident as "non-critical".

  In case *(2)*, the incident is re-qualified as an assistance request and processed as such.

  In case *(3)*, the incident is not Henix's responsibility, and the call is re-qualified as a request for assistance.

"Anomaly / Issue": a difficulty in operating the Software, repetitive and reproducible, requiring a correction in the source code of the Software to be resolved.

The anomaly is qualified by its criticality:

- *Blocking*: deals with any operation incidents making impossible the use of the Software or one of its main features.
- *Major*: deals with any incident other than blocking, triggering a lack in one or several features of the Software.
- *Minor:* deals with any incident other than blocking or major.

"Call": the requests made by the Client to the Provider in the scope of the Support Service described in this Agreement, through one of the media provided to the Client to contact the Provider.
Calls can be of three types: *incident, request for assistance, specific request.* Each call is subject to a support at the end of which the Provider supplies the Client with a call number uniquely identifying the call made.

"Correction": applicable only to issues, the correction is to provide the Client with a Version of the Software, which contains the correction of identified issue(s) as to the origin of a call of type "Incident".
"Request for assistance": a call type for which the object is a request related to the use of the Software.
"Specific request": a call type for which the object is linked to optional or additional services.
"Support": the action to acknowledge the call from a Client. Support is evidenced by providing the Client with a call number and the qualification Henix chose for this call (critical incident, non-critical incident, support request, specific request).

2. PRACTICAL INFORMATION FOR THE SUPPORT

Support access: Via the website:
https://squash.atlassian.net/servicedesk/Client/portal/5
Support Schedule: Business days, from Monday to Friday: 09:00 am – 06:30 pm (Paris, France time zone)
The Client may notify Henix of any malfunction or bug via the ticket management system and shall use reasonable efforts to provide all information necessary for Henix to identify, assess, and characterize the incident.
Number of contacts: The number of contacts depends on the number of Users authorized by the License:

Number of Users	Number of contacts
≤100	1
250	2
500	5
>500	See particular conditions of sale

3. PROCESSING TIME

All the times listed below are counted down in the support time slot described beforehand. Indicated days are business days. Times are calculated from the moment the Support Team has been contacted by the Client Technical Contacts.

		Management time	Analysis period
Incident	**Critical**	4h	1 day
	Noncritical		2 days
Assistance Request			5 days

		Corrective time
Criticality of the anomaly/issue	**Blocking**	2 days
	Major	Next Major Version or under 6 months max
	Minor	A future Major Version

4. FEATURES INCLUDED IN THE LICENSES

Features included in the License are listed on our website: https://www.squashtm.com/en/offers-pricing

5. SPECIFIC PROVISIONS OF THE CLOUD PREMIUM* AND CLOUD ULTIMATE LICENSES

5.1. SOFTWARE'S AVAILABILITY.

Annual software availability rate on business days	Ninety-nine percent (99%)[1]
Deadline before an issue making the Software unavailable is being dealt with.	One (1) hour[2]
Deadline before Service is reestablished if an issue makes the Software unavailable	Four (4)[2] hours from the beginning of the management of the issue on.

[1] Except for update procedures, scheduled downtime periods validated with the Client, and any unavailability due to circumstances beyond Henix's control.
[2] Deadlines are calculated from the moment Henix takes charges of the Client's call.

5.2. BACK-UP PROCEDURES.

Back-up frequency	Daily, at night
Back-ups are kept during	Five (5) days for daily back-ups, and three (3) months for monthly back-ups
Back-ups storage	Transfer of the back-ups to two separate sites, operated by two different companies. The back-ups are transferred every night using encrypted transactions.
Restoration of a back-up at the Client's request	In one (1) working day. Is made from the available back up (see art. 7.3) requested by the Client.

5.3. UPDATE PROCEDURES.

5.3.1. Major Updates

Henix recommends using the latest LTS Version of the Software.

If the Licensee requests the deployment of a Major Version, the Licensee agrees to upgrade to the next Major Version made available, it being understood, in accordance with Section 8.8, that Henix supports only the latest Major Version. Where such subsequent Major Version is also an LTS Version, Henix shall no longer perform upgrades to subsequent Major Versions unless expressly requested by the Licensee.

Upon the end of support for an LTS Version, Henix shall upgrade the Software to the most recent LTS Version.

Updates shall be carried out outside the support hours, on the date communicated by Henix, subject to two (2) weeks' prior notice. The Technical Contact may request, through the support service, that the update be postponed, provided that the update takes place no later than one (1) month after the date initially proposed by Henix.

5.3.2. Other updates

Such updates shall be carried out at Henix's discretion, subject to prior notice to the Licensee.

Update type	Notice Period and Procedure
Minor Version	The Licensee shall receive at least two (2) weeks' prior notice, and the update shall be performed outside the hours of use covered by the support services.
Patch Version Infrastructure	The Licensee shall receive no less than four (4) hours' prior notice, and the update shall be performed outside the operating hours covered by the support services.
Updates Requiring Urgent Action (e.g., Critical Security Vulnerabilities)	The Licensee shall be notified at least two (2) hours prior to the intervention, and such intervention may be carried out at Henix's discretion, including during the usage hours covered by the support services.

APPENDIX 2

PRICES

1. SERVER LICENSES

	5 Users	**10 Users**	**25 Users**	**50 Users**	**100 Users**	**250 Users**	**500 Users**	**Every 250 additional Users**
Server **PREMIUM**	-	-	4 000 €	6 000 €	10 000 €	20 000 €	35 000 €	15 000 €
Server **ULTIMATE**	-	-	10 000 €	15 000 €	25 000 €	50 000 €	87 500 €	37 500 €
Public prices in euros, without taxes, per year, depending on the number of active users								

2. CLOUD LICENSES

	5 Users	**10 Users**	**25 Users**	**50 Users**	**100 Users**	**250 Users**	**500 Users**	**Every 250 additional Users**
Cloud **PREMIUM***	2 000 €	3 000 €	6 000 €	10 000 €	18 000 €	35 000 €	On quotation	On quotation
Cloud **ULTIMATE**	5 000 €	7 000 €	12 500 €	20 000 €	35 000 €	65 000 €	On quotation	On quotation
Public prices in euros, without taxes, per year, depending on the number of active users								

*Without automation features

APPENDIX 3

PERSONAL DATA

1. DESCRIPTION OF THE PROCESSING OF PERSONAL DATA CARRIED OUT BY HENIX ON BEHALF OF THE CLIENT

Purposes of the processing of personal data	Provision of the Software support and maintenance
Nature of the processing	Collection, storage, and use
Categories of personal data	Identification data
Categories of data subjects	Users
Processing duration	For the duration of the License

2. LIST OF AUTHORIZED SUB-PROCESSORS

Authorized sub-processors	**Purposes of the processing**	**Location**	**Appropriate safeguards implemented for international transfers of Personal Data, including transfers outside the European Union**
OVH	Data hosting	France	NA
Scaleway	Data hosting	France	NA
Atlassian	Client Support management	European Union	NA
MailChimp	Marketing emails and Client communications	USA	Certified Data Privacy Framework EU-USA
Google Workplace	Client management	USA	Certified Data Privacy Framework EU-USA
Insightliy	Client management	USA	Certified Data Privacy Framework EU-USA
Fitnet	Contract management	France	NA